



General Assembly

January Session, 2009

Amendment

LCO No. 6816

HB0651806816HDO

Offered by:

REP. SHAPIRO, 144th Dist.
SEN. COLAPIETRO, 31st Dist.
REP. MCCLUSKEY, 20th Dist.
REP. FONTANA, 87th Dist.
REP. BARRY, 12th Dist.
REP. CLEMONS, 124th Dist.

REP. BYE, 19th Dist.
REP. FRITZ, 90th Dist.
REP. TABORSAK, 109th Dist.
REP. MEGNA, 97th Dist.
REP. LYDDY, 106th Dist.
REP. PERONE, 137th Dist.

To: Subst. House Bill No. 6518

File No. 111

Cal. No. 141

"AN ACT CONCERNING THE FAIR PRICING OF GASOLINE."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2009*) (a) For purposes of this
4 section:

5 (1) "Hypermarket" means a retail establishment in excess of fifty
6 thousand square feet or a supermarket that is: (A) Associated with,
7 and (B) contiguous to a retail gas station.

8 (2) "Reseller" means an individual, partnership, corporation, limited
9 liability company, association or other entity, including, but not
10 limited to, a manufacturer, refiner, supplier, wholesaler, hauler,
11 blender, agent, jobber or distributor who supplies gasoline intended

12 for immediate or eventual resale to consumers in this state.

13 (3) "Retail gas station" means an individual, partnership,
14 corporation, limited liability company, association or other entity that
15 sells gasoline directly to consumers from a fixed physical location.

16 (b) Notwithstanding any other provision of the general statutes, no
17 person engaged in the business of furnishing gasoline to a reseller or
18 retail gas station in this state shall use a pricing system under which
19 the wholesale price paid for such gasoline by such reseller or retail gas
20 station is determined based on the geographic location of such reseller
21 or retail gas station.

22 (c) Notwithstanding any other provision of the general statutes, no
23 person engaged in the business of furnishing gasoline to a reseller or
24 retail gas station in this state shall use a pricing system or impose any
25 other condition of sale that would prevent resellers or retail gas
26 stations from paying lower prices on an equal basis with other resellers
27 or retail gas stations in this state.

28 (d) Notwithstanding any other provision of the general statutes, no
29 person engaged in the business of furnishing gasoline to a reseller or
30 retail gas station in this state shall discriminate in the price of such
31 gasoline charged to a reseller or retail gas station in this state, except to
32 recover actual transportation costs.

33 (e) Notwithstanding the provisions of subsections (c) and (d) of this
34 section, a person engaged in the business of furnishing gasoline to a
35 reseller or retail gas station in this state may offer volume discounts, as
36 determined by such person from time to time, provided if any such
37 volume discounts are offered to one such reseller or retail gas station
38 for specified sales volumes, such volume discounts shall be offered on
39 equal terms and conditions by such person to all of its resellers or retail
40 gas stations who meet or exceed such specified sales volumes. When
41 offered, all such volume discounts shall be disclosed, in writing, by
42 such person to such reseller or retail gas station and all such volume
43 discounts and actual transportation costs, specified sales volumes and

44 the time period for which they are offered shall be listed as a separate
45 line item entry on each invoice to each reseller or retail gas station
46 accepting such offer.

47 (f) Notwithstanding the provisions of subsections (c), (d) and (e) of
48 this section, a reseller may modify the price such reseller charges a
49 retail gas station for gasoline, without offering such price modification
50 to other retail gas stations, provided: (1) Such reseller provides a loan
51 or other financial accommodation for the construction, repair or
52 maintenance of capital improvements located at the retail gas station,
53 including, but not limited to, the construction, installation, repair,
54 removal or maintenance of underground gasoline tanks, overhead
55 canopies, gasoline pumps and the improvement or altering of the
56 appearance and functionality of any convenience store operated at the
57 retail gas station, capital investments or infrastructure upgrades, (2)
58 such loan or other financial accommodation is financed by such retail
59 gasoline station through payment to such reseller of a modified price
60 for gasoline purchased by such retail gas station, (3) such modified
61 price for gasoline purchased by such retail gas station solely and
62 directly correlates to the amount of such loan or other financial
63 accommodation, and (4) such modified price is listed as a separate line
64 item entry on each invoice to each reseller or retail gas station
65 accepting any such modified price offer. In the event a reseller
66 modifies a price the reseller charges a retail gas station for gasoline
67 pursuant to this subsection, the reseller shall document the following,
68 in writing: (A) The terms of any associated loan or other financial
69 accommodation between the reseller and the retail gas station, (B) the
70 purpose of the loan or other financial accommodation, (C) evidence
71 that the purpose of the loan or other financial accommodation has been
72 fulfilled, (D) the price the reseller would have charged the retail gas
73 station for the gasoline if the loan or other financial accommodation
74 had not been made to the retail gas station, and (E) the price the retail
75 gas station is paying for the gasoline because the loan or other financial
76 accommodation was made to the retail gas station.

77 (g) Notwithstanding the provisions of subsections (c), (d) and (e) of

78 this section, a reseller may modify the price such reseller charges a
79 retail gas station for gasoline, without offering such price modification
80 to other retail gas stations, if there are two or more other retail gas
81 stations or one or more hypermarkets within a three-mile radius of the
82 retail gas station receiving a price modification pursuant to this
83 subsection and such modification is made to meet a lower price of a
84 competitor within such three-mile radius, for as long as such
85 competitor maintains such lower price. In the event a reseller modifies
86 a price the reseller charges a retail gas station for gasoline pursuant to
87 this subsection, the reseller shall document the following, in writing:
88 (1) The business name and address of such competitor to the retail gas
89 station receiving the modification, (2) date-stamped, photographic
90 evidence of such competitor's gasoline price that is publicly displayed
91 pursuant to section 16a-15 of the general statutes, immediately prior to
92 such reseller's offering of such price modification to such retail gas
93 station, (3) the modified price and amount such reseller charged such
94 retail gas station, and (4) the first date upon which the price such
95 competitor subsequently offered gasoline to the public that exceeded
96 the price displayed pursuant to subdivision (2) of this subsection.

97 (h) Each person engaged in the business of furnishing gasoline
98 pursuant to this section shall keep and maintain written or electronic
99 records for not less than seven years for each sale of gasoline to a
100 reseller or retail gas station in this state. Such records shall include, but
101 not be limited to, the date and time of sale, name of purchaser and
102 seller, delivery or purchase location of such gasoline, the amount, price
103 and specified sales volume discount of all gasoline sold to such reseller
104 or retail gas station and any volume discounts offered pursuant to
105 subsections (d) to (g), inclusive, of this section.

106 (i) The records kept and maintained pursuant to this section may,
107 from time to time and within available resources and upon prior
108 written request, be inspected by the Commissioner of Consumer
109 Protection or the Attorney General or by their duly authorized
110 representatives. Any person providing such records for inspection
111 shall also provide a signed statement to the Commissioner of

112 Consumer Protection or the Attorney General that such records are
113 true and correct. If a person fails to supply such records within ten
114 business days after receiving a written request for such records
115 pursuant to this subsection, such person shall forfeit and pay to the
116 state a civil penalty of not more than one thousand dollars per day for
117 each day the submission of such records is refused or delayed. The
118 Attorney General, acting in the name of the state, may petition the
119 Superior Court for recovery of such penalties.

120 (j) Records provided pursuant to this section shall be considered
121 confidential and proprietary trade secret information and shall be held
122 in confidence by the Commissioner of Consumer Protection or the
123 office of the Attorney General and shall not be released to third parties
124 except by court order or with the written consent of the person who
125 kept and maintained such records.

126 (k) The Attorney General may bring a civil action in the superior
127 court for the judicial district of Hartford against any person who
128 violates any provision of this section to recover a civil penalty of not
129 more than twenty-five thousand dollars per violation and such
130 equitable relief as the court deems appropriate.

131 (l) This section shall not be construed to apply to a contract entered
132 into between the State of Connecticut and any person regarding real
133 property owned by the State of Connecticut."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2009	New section